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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,079	07/10/2003	Allan Fabrick		3382

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SIMON, GALASSO & FRANTZ PLC.
P.O. Box 26503
Austin, TX 78755-0503

EXAMINER

NGUYEN, HIEP VAN

ART UNIT	PAPER NUMBER
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3626

MAIL DATE	DELIVERY MODE
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08/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/617,079

Applicant(s)

FABRICK ET AL.

Examiner

HIEP NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-87 have been examined.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 46-55 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claim 46 is directed to software (i.e. images). However, it lacks a computer readable medium that stores the software such that when it is executed causes a computer to perform a specific set of method steps (MPEP 2106.01 section I)

Claims 47-55 are rejected as each depends from claim 46.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 8, 10-15, 86-87 are rejected under 35 U.S.C.102(b) as being anticipated by Walker et al. (US. 6,684,276.).

7. With respect to Claim 1, Walker et al. teaches a method comprising:
 - a. obtaining information associated with an individual's medical condition ('276; Col. 7, lines 50-54);
 - b. selecting information to be presented to a medical provider based on the information retrieved ('276; Col. 8, lines 52-58); and
 - c. presenting the selected information to the medical provider in an integrated format ('276; Col. 8, lines 52-66.)
8. With respect to Claim 2, Walker et al. further disclose including; collecting the information associated with an individual's medical condition; and storing the collected information in a database ('276; Col. 9, lines 14-19.)
9. With respect to Claim 3, Walker et al. further disclose wherein information associated with an individual's medical condition includes diseases ('276; Col. 9, lines 39-52.)
10. With respect to Claim 4, Walker et al. further discloses wherein information associated with an individual's medical condition includes treatment history ('276; Col. 7, lines 42-49; fig 13A.)

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11. With respect to Claim 5, Walker et al. further discloses wherein information associated with an individual's medical condition includes risk factors ('276; Col. 2, lines 62-65.)

12. With respect to Claim 8, Walker et al. further disclose wherein care guidelines include medical tests likely to be required ('276; Col. 8, lines 8-19.)

13. With respect to Claim 10, Walker et al. further discloses wherein care guidelines include information associated with referrals ('276; Col. 9, lines 39-45.)

14. With respect to Claim 11, Walker et al. further discloses wherein selecting information includes suppressing information to be excluded from presentation ('276; col. 14, lines 22-33.)

15. With respect to Claim 12, Walker et al. further discloses wherein presenting the selected information includes printing a form ('276; Col. 14, lines 34-39)

16. With respect to Claim 13, Walker et al. further discloses wherein presenting the selected information includes saving the selected information to a computer readable file ('276; Col. 12, 34-47.)

17. With respect to Claim 14, Walker et al. further discloses wherein presenting the selected information includes presenting the selected information on a display device ('276; Col. 12, lines 40-53.)

18. With respect to Claim 15, Walker et al. further discloses wherein presenting the selected information on a display device includes presenting the selected information in an interactive format ('276; Col. 14, lines 11-15: graphical user interface.)

19. With respect to Claim 86, Walker further discloses a method of obtaining information from a medical database, the method comprising: presenting a medical database interface to an end-user; obtaining one or more filtering criteria from the end-user via the medical database interface; filtering data in the medical database based on the one or more filtering criteria obtained; and generating a report including the filtered data ('276; Col/line 8/52-9/9.)

87. With respect to Claim 87, Walker et al. further discloses including generating a report file including the one or more filtering criteria, wherein the report file is usable to supply filtering criteria during subsequent filtering operations ('276; col. 9, lines 24-28.)

20.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 6-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 6,684,276) in view of Lavin et al. (US 5,772,585.)

23. With respect to Claim 6, Walker et al. does not disclose clearly wherein information associated with an individual's medical condition includes the individual's vital statistics.

Lavin et al. further discloses wherein information associated with an individual's medical condition includes the individual's vital statistics ('585; col. 8, lines 39-57.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Walker et al. and Lavin et al. to include said vital statistics in patient medical records.

24. With respect to Claim 7, Walker et al. does not disclose clearly wherein selecting information includes selecting care guidelines associated with the individual's medical condition.

Lavin et al. further discloses wherein selecting information includes selecting care guidelines associated with the individual's medical condition '585; Col. 12, lines 20-25.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Walker et al. and Lavin et al. related to care guidelines in said individual's medical condition.

25. With respect to Claim 9, Walker does not clearly disclose wherein care guidelines include potential side effects of prescription medication to watch for.

Lavin et al. further discloses disclose wherein care guidelines include potential side effects of prescription medication to watch for ('585; Col/line 13/60-14/11.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Walker et al. and Lavin et al. related to side effect of prescription.

26. With respect to Claims <16-30>, <31-45>, <46-55>, <56-70>, <71-85>, they are method and system claims which repeat the same limitations of claims <1-15>, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of <Walker et al./Lavin et al.> disclose the underlying process steps that constitute the methods of claims <1-15>, it is respectfully submitted that they provide the underlying structural elements that perform the steps as

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well. As such, the limitations of claims <16-30>, <31-45>, <46-55>, <56-70> <71-85> are rejected for the same reasons given above for claims <1-15>.

Conclusion

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEP NGUYEN whose telephone number is (571)270-5211. The examiner can normally be reached on Monday through Friday 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/HIEP NGUYEN/

Examiner, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626